

*File - Former Spouses*

OGC 82-05665

11 June 1982

MEMORANDUM FOR: See Distribution

FROM:

Chief, Legislation Division, OGC

SUBJECT: Former Spouses Legislation

The Senate Select Committee on Intelligence is scheduled to mark up S. 2422, its version of former spouses legislation, on Thursday, 17 June, at 10:00 AM. Attached is a package of amendments which we have just received from Committee staffer Dan Finn. Please review these amendments so that we can discuss them early next week and communicate our views back to the Committee in time for the mark up on Thursday. We will be in contact with you on Monday with respect to a scheduling of a meeting to discuss the amendments.

Attachment

Distribution:

1 - [ ] DD/OP  
1 - C/CMS/DDO  
1 - [ ] C/RAD/OP  
1 - [ ] C/HL/LLD/OEXA  
1 - [ ] C/ALD/OGC  
1 - [ ] ALD/OGC

Amendment 1: Inclusion of Civil Service Retirement and Disability System Participants

S.2422 as introduced April 22, 1982 is amended as follows:

- (1) The ~~legend~~<sup>caption</sup> of the bill is changed to read:

"To provide for equitable sharing by the spouses of qualified Central Intelligence Agency officers in retirement benefits earned as a result of service with the Agency."

- (2) The following new section is added:

"Sec. \_\_\_\_ The Central Intelligence Agency Act of 1949 (50 U.S.C. 403 a-m) is amended by adding at the end the following new section:

'Sec. 14. (a) Any qualified former spouse of an employee of the Agency, which employee is a participant in the Civil Service Retirement and Disability System, is entitled to an annuity under such retirement system--

'(1) if married to the participant throughout the creditable service of the participant, equal to 50 per centum of the annuity of the participant; or

'(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 per centum of such annuity.

'(b) Any qualified former spouse of such employee of the Agency, which employee is a former participant in the Civil Service Retirement and Disability System and is survived by such former spouse, is entitled to an annuity under such retirement system--

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'(1) if married to the participant throughout the creditable service of the participant, equal to 55 per centum of the full amount of the participant's annuity; or

'(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 55 per centum of the full amount of such annuity.

'(c) Notwithstanding subsections (a) and (b), benefits for qualified former spouses shall--

'(1) commence and terminate; and

'(2) be subject to limitation or modification

because of spousal agreements, court orders, multiple spouses or former spouses, recall or reinstatement to service, or other circumstances in a manner comparable to the manner in which benefits for former spouses of participants are administered under the Central Intelligence Agency Retirement Act of 1964 for certain employees.

'(d) The Director shall issue such regulations as are necessary to implement the provisions of this section.

'(e)(1) The provisions of this section regarding the rights of former spouses to any annuity under subsection (a) shall apply in the case of any individual who after the effective date of this section becomes a former spouse of an individual who separates from the Agency after such date.

'(2) Except to the extent that it is inconsistent with an election made which is comparable to an election under section 223 of the Central Intelligence Agency Retirement Act of 1964 for certain employees, the provisions of this section regarding the rights of former spouses to receive survivor annuities under subsection (b) shall apply in the case of any individual who after the effective date of this section becomes a former spouse of a participant or former participant in the Civil Service Retirement and Disability System."

Amendment 2: Overseas Service Requirement; Creditable Service

Sec. 2(2) of S.2422, as it was introduced on April 22, 1982, is amended to read as follows:

"(2) by adding at the end thereof the following:

'(4) "Former spouse" means a former wife or husband of a participant or former participant who was married to such participant for not less than ten years during periods of service by that participant which are creditable under sections 251, 252 and 253 of this Act, at least five years of which were spent overseas.'"

Amendment 3: Excess Contributions to CIARDS

A new section is added to S.2422 as introduced on April 22, 1982, as follows:

"Section 211 of the Central Intelligence Agency Retirement Act of 1964 for certain employees is amended by adding at the end thereof the following new subsection:

'(c) Amounts deducted and withheld from the basic salary of a participant under this section from the beginning of the first pay period after the participant has completed 35 years of creditable service computed under sections 251 and 252 (excluding service credit for unused sick leave under section 221(h)), together with interest on these amounts at the rate of 3 percent a year compounded annually from the date of the deduction to the date of retirement or death, shall be applied toward any special contribution due under section 252(b) and any balance not so required shall be refunded in a lump sum to the participant after separation (or, in the event of a death in service, to a beneficiary in order of precedence specified in subsection 241(b)(1)), subject to any restrictions on lump sums under section 234 of this Act regarding notification or consent of a spouse or prior spouse to such payments, or the participant may use these sums to purchase an additional annuity in accordance with section 281, or any other elective benefits authorized by this Act, including additional retirement or survivorship benefits for a current or former spouse or spouses.

Amendment 4: Lump Sum Payments

A new section is added to S.2422 as introduced on April 22, 1982, as follows:

"Section 234 of the Central Intelligence Agency Retirement Act of 1964 for certain employees is amended as follows:

(1) The word "Any" in subsection (a) is stricken and replaced with the following phrase:

'Subject to any limitations contained in subsections (c) or (d),'.

(2) The following new subsection is added to that section:

"(c) Unless otherwise expressly provided by any spousal agreement or court order under section 263(b), the amount of a participant's or former participant's lump-sum credit payable to a former spouse of that participant shall be--

"(1) if the former spouse was married to the participant throughout the period of creditable service of the participant, 50 percent of the lump-sum credit to which such participant would be entitled in the absence of this subsection, or

"(2) if such former spouse was not married to the participant throughout such creditable service, an amount equal to such former spouse's pro rata share of 50 percent of such lump-sum credit.

The lump-sum credit of the participant shall be reduced by the amount of the lump-sum credit payable to the former spouse."

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(3) The following new subsection is also added to that section:

"(d) A lump sum payment under this section or section 241 of this Act may be paid by the Director to or for the benefit of a participant only upon notification by the Director of a current spouse of the participant, if any, or any former spouse with whom the participant has not concluded a final, legally recognizable and enforceable property settlement of judgment incident to divorce proceedings, and the express written waiver of that spouse or former spouse has been received by the Director.

Amendment 5: Recognition of Court Orders and  
Spousal Agreements

Sec. 8(2) of S.2422 as introduced on April 22, 1982 is amended to read:

"(2) by adding at the end thereof the following:

'(b) Payments under this Act which would otherwise be made to a participant or the child, survivor, or former spouse of a participant based upon the service of the participant shall be paid (in whole or in part) by the Director directly to the participant, or child, survivor, or former spouse of the participant according to the terms of any legally enforceable spousal agreement or recognized court decree of divorce, annulment, or legal separation between the participant and that former spouse, or the terms of any recognized court order or court-approved property settlement incident to any such spousal agreement or court decree of divorce, annulment, or legal separation. Any payment under this subsection to a party to a spousal agreement, or court decree of divorce, annulment, or legal separation or property settlement agreement incident thereto shall bar recovery by any other person.'"



Amendment 6: Validity of Spousal Agreements and Court  
Orders Incidental to Divorce

S.2422 as introduced April 22, 1982 is amended as follows:

- (1) Lines 17 to 21 of page 9 of the bill are deleted;
- (2) The word "(5)" on line 22 of page 9 is changed to read "(4)";
- (3) The word "(6)" on line 14 of page 10 of the bill is changed to read "(5)";
- (4) The word "(7)" on line 1 of page 11 of the bill is changed to read "(6)".

Amendment 7: Waiver of Survivorship Rights

S.2422 as introduced April 22, 1982, is amended as follows:

- (1) Lines 4 to 16 of page 3 of the bill are stricken and in their place the following language is inserted:

"(B) A married participant or former participant and his or her spouse may jointly elect in writing to waive a survivor annuity for that spouse under this section (or under section 222(b) if the spouse later qualified as a former spouse under section 204(b)(4)), or to reduce such survivor annuity under this section (or section 222(b)) by designating a portion of the annuity of the participant as the base for the survivor benefit. If the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 222(b) may not exceed the portion of the participant's annuity designated under this subparagraph."

- (2) Lines 17 to 24 of page 3 of the bill are stricken and in their place the following language is inserted:

"(C) If a participant or former participant has a former spouse, the participant and such former spouse may jointly elect by spousal agreement under section 263(b) to waive a survivor annuity under section 222(b) for that former spouse."